

Application No. 10/729,000
Amendment "serial number" dated June 2, 2005
Reply to Office Action mailed March 30, 2005

REMARKS

Claims 1-13 and 16-29 are pending, wherin claims 1, 2, 7, 8, 10, 11, 20 and 27-29 have been amended. No claims were added or cancelled by this amendment.

The present application discloses child restraint devices and methods for their use that include a handle that is easily gripped by a user in order to hold or restrain a child in a desired position. See Figures 3, 4, 18A and 18B. An important feature of the "handle" that forms part of the child restraint device is that it can be easily gripped by a person's hand in a manner so that at least a portion of the hand lies between at least a portion of the handle (e.g., loop) and the child's body during use (e.g., Figures 3, 4, 18A and 18B). If an alleged "handle" were positioned or stretched so tightly next to the person's body that it would be impossible to slip a person's hand between a portion of the handle and the child's body, it would be necessary to pinch the alleged "handle" between a person's fingers, which would greatly compromise the ability to safely hold a child in a desired position.

The Office Action rejects claims 1-8, 10-13, 16, 18, 20-26, and 29 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,122,778 to Cohen. The Office Action alleges that element numbers 70, 86, and 84 comprise "handles" and that straps 32, 40, and 54 comprise "attachment means" used for attaching the alleged "handles" 70, 84, and 86 during use. Office Action, p. 2. In response, Applicant submits that the structures corresponding to numbers 70, 84, and 86 in Cohen are not "handles" at all, but are merely supporting structures intended to hold the lift vest of Cohen together. As is clearly shown in Figures 3-5, elements 70, 84, and 86 are tightly disposed against the side of the lift vest such that there is no room for a person to insert a portion of the person's hand (e.g., fingers) between the alleged "handles" 70, 84, and 86 and the fabric 18 of the lift vest. As such, the alleged "handles" 70, 84, and 86 could only be "gripped", if at all, by pinching them between a person's fingers.

The foregoing interpretation of the drawings is clear from the accompanying description in the specification. Applicants preliminarily note that the specification does not ever describe elements 70, 84, and 86 as being "handles" or that they are capable of being gripped by a hand. Instead, elements 70, 84, and 86 are merely auxiliary items designed to hold the straps of the lift vest together in a desired fashion. Element number 70 is described as follows:

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Secured to each side of the lift vest is a double belt control 70 (see Figs. 3 and 4) which is essentially a double belt loop. It is made up of a strap of webbing which has been doubled and stitched on both ends to create upper loop 72 that receives chest belt 36 and a lower loop 74 that receives waist belt 32. A double belt control 70 is placed under each of the armholes 20 and 22 of the garment so that the waist belt 32 and chest belt 36 are threaded through the loops [72 and 74]. The function of double belt controls 70 is to equalize lifting force between the two belts 32 and 36.

Col. 5, lines 33-42 (emphasis added). The fact that double belt control 70 is "doubled and stitched at both ends" explains why there is insufficient room shown in Figures 3-5 for inserting a person's fingers between the double belt control 70 and the fabric 18 of the lift vest. The double stitching forming loops 72 and 74 is necessary in order to restrain movement and transfer forces between waist belt 32 and chest belt 36. However, such stitching keeps double belt control 70 tightly held to fabric 18 of the lift vest. Accordingly, Applicant submits that double belt control 70 is not a "handle".

In order to further distinguish over the double belt control 70, the claims to a restraint device have each been amended to emphasize that the claimed "handle" is "configured to be gripped by a person's hand" in a manner "so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body". Support for these amendments is clearly shown in Figures 3, 4, 18A and 18B. Dependent claims 2 and 11 were amended to specify that the claimed "loop" has "an opening that easily accommodates insertion of a person's fingers therethrough while gripping the loop. This is also shown in Figures 3, 4, 18A and 18B. Method claim 20 was alternatively amended in order to specify that "a portion [of the handle] extends laterally away from the child's body to facilitate gripping of the handle". This is also clearly shown in Figures 3, 4, 18A and 18B.

Elements 84 and 86 serve essentially the same function as double belt control 70, as explained in Cohen as follows:

As shown in Figs. 3 and 4, there is provided over each shoulder area of the vest a shoulder epaulet. The epaulet over the right shoulder being indicated by numeral 84, and over the left shoulder by 86. The epaulets are secured at their opposite ends to garment 18, but form loops that receive right shoulder strap 40 and left shoulder strap 54 respectively.

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Col. 5, lines 43-48. Like the double belt control 70, the "epaulets" 84 and 86 are also shown as being closely held against the fabric 18 of the lift vest. See Figures 3-5. Moreover, epaulets 84 and 86 are only large enough to permit passage of straps 40 and 54 therethrough. There is insufficient room for inserting a hand between the epaulets 84 and 86 and the fabric 18 of the lift vest. Applicant therefore submits that epaulets 84 and 86 do not constitute "handles", particularly as the term "handle" has been amended herein. In view of the foregoing, Applicant submits that none of the independent claims are anticipated by or obvious over Cohen, either alone or in combination with the other art of record.

The dependent claims contain additional limitations that further distinguish over Cohen and the other art of record. For example, dependent claims 2 and 11 specify that the handle comprises "a loop having an opening that easily accommodates insertion of a person's fingers therethrough while gripping a loop". As discussed above, the double belt control 70 and epaulets 84 and 86 are attached so closely to the fabric 18 of the lift vest that it would be very difficult, if not impossible, for a person to insert a hand between structures 70, 84, and 86 and the fabric 18 of the lift vest.

Dependent claim 7 further specifies that the handles are located "at or near at least one of the child's spine or sternum". In contrast to claim 7, the double belt control 70 of Cohen is located near a person's sides under the armpits during use not "at or near at least one of the child's spine or sternum". In addition, epaulets 84 and 86 are located above a person's shoulders on either side of a persons' neck during use, not "at or near at least one of a child's spine or sternum". Accordingly, Applicant submits that dependent claim 7 is further patentable over the art of record for this additional reason.

Claim 8 is further patentable over the art of record since neither the double belt control 70 nor the epaulets 84 and 86 are located "at or near a center of at least one of a child's chest, upper back, lower back, or stomach". The double belt control 70 is located underneath the person's armpits during use, not "at or near a center of a child's chest, back, or stomach". The epaulets 84 and 86 are located over the person's shoulders during use, not "at or near a center of a child's chest, back, or stomach". Accordingly, Applicant submits that dependent claim 8 is further patentable over the art of record for this additional reason.

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The Office Action rejects claims 9, 17, and 28 under U.S.C. 35 § 103 as being unpatentable over Cohen in view of U.S. Patent No. 5,606,744 to Lindy. In making this rejection, the Office Action admits that "Cohen is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when a restraint device is in use". For this reason, the Office Action attempts to combine Lindy with Cohen on the grounds that Lindy discloses a "head restraining system configured to restrain a child's head in a desired position relative to the child's body". Office Action, p. 7. However, Lindy neither teaches nor suggests a "head restraining system" that is able to hold a child's head in a desired position relative to the child's body. Instead, Lindy simply discloses a cushion that can be strapped onto a child's body so that "if the baby slips, its head, as well as its neck and shoulders, will fall against cushion (10)". Abstract (emphasis added). Accordingly, the cushion (10) does not in any way hold the child's head in a desired position, but simply protects the head from hitting the floor if the child were to slip and fall backwards. Because the abstract of Lindy specifically contemplates a device that is intended to protect the baby in case the head, neck, and shoulders "fall" against the floor, it is clear that this device is not a "head restraining system" that is capable of restraining a child's head in a desired position relative to the child's body. Accordingly, Applicant submits that claims 9, 17, and 28 are further patentable over Cohen and Lindy for this additional reason.

The Office Action rejects claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Cohen in view of U.S. Patent No. 5,514,019 to Smith. In making this rejection, the Office Action alleges that Cohen teaches a restraint device that includes "a releasable handle (Cohen Fig. 8, # 70 and 72) positioned next to the child's body or clothing". As discussed above, element no. 70 is not a "handle" as that term is now defined in the claims. Moreover, the alleged "handles" 70 and 72 are not in any sense of the word "releasable" so as to include a pair of straps that may be selectively connected and unconnected and that form a loop when selectively connected. Instead, Cohen teaches that the double belt control 70 "is made up of a strap of webbing which has been doubled and stitched on both ends to create upper loop 72 that receives chest belt 36 and a lower loop 74 that receives waist belt 32". Col. 5, lines 33-37. The only way to "release" the alleged "handle" 70 is to rip out the stitches used to stitch together the webbing so as to create upper loop 72 and lower loop 74 and then sever a portion of the double belt control 70 so as to create a pair of straps that are no longer connected together. Thereafter, it

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would be necessary to stitch, glue, or otherwise re-join the ends of the severed straps since Cohen neither teaches nor suggests any fastening means for selectively fastening and unfastening two ends of the strap. Because Cohen does not teach or suggest the desirability of making elements 70 and 72 into "releasable handles", there would have been no motivation to combine Cohen with Smith in order to incorporate attachment means. The alleged "pair of cooperating straps" of double belt control 70 are simply nonexistent since double belt control 70 is a solid piece that is doubled and "stitched on both ends". Claim 27 is therefore further patentable over the art of record for this additional reason.

In view of the foregoing, Applicant submits that the application as amended is in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 2nd day of June 2005.

Respectfully submitted,


JOHN M. GUYNN
Registration No. 36,153
Attorney for Applicant
Customer No. 022913

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